

BILL ANALYSIS

Senate Research Center

S.B. 899
By: Eltife
Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 151 (Regulation of Money Services Businesses) of the Finance Code applies to money services businesses (MSBs). Chapter 151 divides MSBs into two types: currency exchangers and money transmitters. Under Chapter 151, MSBs are regulated by the Texas Department of Banking.

The proposed changes to Chapter 151 primarily clarify and simplify existing provisions. New provisions will increase the security required of certain currency exchangers to better protect consumers, and streamline the ability of law enforcement to prosecute crimes under Chapter 151.

S.B. 899 amends current law relating to the regulation of money services businesses and affects the prosecution of a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 151.003, Finance Code, as follows:

Sec. 151.003. EXCLUSIONS. Provides that the following persons are not required to be licensed under this chapter:

(1)-(8) Makes no change to these subdivisions;

(9) a person engaged in the business of currency transportation who is both a registered motor carrier under Chapter 643 (Motor Carrier Registration), Transportation Code, and a licensed armored car company or courier company under Chapter 1702 (Private Security), Occupations Code, provided that the person:

(A) only transports currency from a person to the same person at another location or a financial institution to be deposited in an account belonging to the same person; and

(B) does not otherwise engage in the money transmission or currency exchange business without a license issued under this chapter; and

(10) Makes no change to this subdivision.

SECTION 2. Amends Sections 151.302(a) and (b), Finance Code, as follows:

(a) Prohibits a person from engaging in the business of money transmission in this state or from advertising, soliciting, or representing, rather than holding itself out as a person, that the person engages in the business of money transmission in this state unless the person meets certain requirements as set forth.

(b) Provides that, for purposes of this chapter, a person engages in the business of money transmission if the person receives compensation or expects to receive compensation, directly or indirectly, for conducting money transmission. Deletes existing text providing that, for the purposes of this chapter, a person engages in the business of money transmission if the person conducts money transmission for persons located in this state and receives compensation or expects to receive compensation, directly or indirectly, for conducting the transmissions and a person solicits, advertises, or holds itself out as a person that engages in the business of money transmission if the person represents that the person will conduct money transmission for persons located in this state.

SECTION 3. Amends Section 151.504(b), Finance Code, as follows:

(b) Requires an applicant, at the time an application for a currency exchange license is submitted, to file with the Texas Department of Banking:

(1) Makes no change to this subdivision;

(2) security in the amount required under Section 151.506, rather than security in the amount of \$2,500 that meets the requirements of Section 151.506.

SECTION 4. Amends Section 151.506, Finance Code, as follows:

Sec. 151.506. SECURITY. (a) Creates this subsection from existing text. Requires an applicant for a currency exchange license to provide and a currency exchange license holder to maintain at all times security in the amount applicable to the applicant or license holder under this section. Requires that the security satisfy the requirements of and is subject to Sections 151.308(c) through (j) (relating to the requirements and authorizations concerning securities). Deletes existing text requiring an applicant for a currency exchange license to provide and a currency exchange license holder to maintain at all times security in the amount of \$2,500 that satisfies the requirements of and is subject to Sections 151.308(c) through (j).

(b) Requires an applicant to provide and a license holder to maintain security in the amount of \$2,500 if the applicant will conduct or the license holder conducts business with persons located in this state exclusively at one or more physical locations through in-person, contemporaneous transactions.

(c) Provides that, except as provided by Subsection (d), if Subsection (b) does not apply to:

(1) the applicant, the applicant must provide security in the amount that is the greater of \$2,500 or an amount equal to one percent of the applicant's projected total dollar volume of currency exchange business in this state for the first year of licensure; or

(2) the license holder, the license holder must maintain security in the amount that is the greater of \$2,500 or an amount equal to one percent of the license holder's total dollar volume of currency exchange business in this state for the preceding year.

(d) Provides that the maximum amount of security that may be required under Subsection (c) is \$1 million.

SECTION 5. Amends Section 151.605(g), Finance Code, to delete existing text from Subdivision (3) providing that among the persons exempt from the requirements of Subsection (a) (relating to the change in control of a license dispensed under this chapter) is a person that acquires control as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court or by operation of law and makes nonsubstantive changes to renumber subdivisions accordingly.

SECTION 6. Amends Section 151.708(c), Finance Code, to authorize an offense under this section to be prosecuted in Travis County or in the county in which the offense is alleged to have been committed. Deletes existing text authorizing the Banking Commissioner of Texas (commissioner), if the commissioner has reason to believe that a person has committed an offense under this section or any other state or federal law, to file a criminal referral with the district attorney of Travis County or an appropriate prosecuting attorney of the county in which the offense is alleged to have been committed.

SECTION 7. Repealer: Section 151.301(b)(7) (defining "receive"), Finance Code.

SECTION 8. Provides that Section 151.605, Finance Code, as amended by this Act, applies only to a person that acquires control of a license holder under that section as a personal representative, custodian, guardian, conservator, or trustee or as an officer appointed by a court or by operation of law on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 9. Provides that Section 151.708(c), Finance Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2015.